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Crowd awaiting the arrival of Clarence Darrow, Dayton, 1925. *Courtesy UTK Special Collections.*

noted criminal lawyer with long experience in matters of defense. While I feel entirely at home in discussing the merits of the case, I will have to rely upon you and Mr. Haggard to deal with law motions, except as they raise the main issues, namely, the right of the state to regulate the schools and the effect of evolution on the pupils. As you three (your firm and Mr. Haggard) are on the ground and acquainted with the situation, I will leave you to determine whether as matter of precaution we should associate with us some one who could be of assistance on the law points.

In a letter to me, please let me know to what church the judge²⁶ belongs, if to any. I understand the superintendent of schools²⁷ who is

²⁶ John Tate Raulston (1868-1956), a former school teacher, began the practice of law in 1900. From 1902 to 1904 he served in the state legislature as a Republican. In 1918 he was elected judge of the eighteenth district.

²⁷ Walter White (1881-1951) was superintendent of schools in Rhea County and a Baptist. Upon the resignation of George Rappleyea as complainant against John T. Scopes, White took his place. White, who had served as a Republican in the state legislature, was to be his party's nominee for governor in 1926.

now the prosecuting Southern Methodist. I the merits of the case. Please feel free to w

Dear Mr. Hicks:

This is a copy of l where we can all be t part of our family. I le

June 7, 1925

Mr. F. R Rogers,
Dayton, Tennessee

My dear Mr. Rogers:

I find, upon my r your very kind letter but am not sure that sufficient for our ne been present when crippled by arthritis be necessary in ord will take care of he beds in it. My son another room with young man³⁰ who will need a third ro find it, a fourth ro

²⁸ Frederick Richard Robinson's Drug S

²⁹ William Jennings Br

³⁰ William McCartney



Dayton, 1925. Courtesy UTK

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c of schools in Rhea County and a ppleyea as complainant against who had served as a Republican ominee for governor in 1926.

now the prosecuting witness is a prominent Methodist—I suppose Southern Methodist. I am arranging for such witnesses as we need on the merits of the case.

Please feel free to wire at any time.

Very truly yours,
W. J. Bryan

Dear Mr. Hicks:

This is a copy of letter to Mr. Rogers.²⁸ If you cannot find a place where we can all be together, it may be wise to arrange with him for a part of our family. I leave the matter in your hands.

W. J. Bryan

June 7, 1925

Mr. F. R Rogers,
Dayton, Tennessee

My dear Mr. Rogers:

I find, upon my return home after more than a month's absence, your very kind letter of the second. I greatly appreciate your kindness, but am not sure that the rooms which you so generously offer will be sufficient for our needs. Mrs. Bryan will be with me. She has always been present when I have had important work to do and, while crippled by arthritis, is willing to suffer whatever inconvenience may be necessary in order to be present. She will have a lady friend who will take care of her and they will need a good sized room with two beds in it. My son²⁹ will probably be with me and we will need another room with two beds. My secretary will also be with me and a young man³⁰ who carries Mrs. Bryan and drives her car. Those two will need a third room with two beds. And we would like, if we can find it, a fourth room for a general sitting room or reception room. We

²⁸ Frederick Richard Rogers (1895-1964) was a local pharmacist and worked in Robinson's Drug Store.

²⁹ William Jennings Bryan, Jr. (1889-?) was a lawyer in Los Angeles.

³⁰ William McCartney.

would also need a bath room. You will see that our needs are so great that it would not be fair to impose upon any family, and I have asked Mr. Hicks to try to secure rooms for us at a hotel or to secure a furnished house which we could occupy while there. I hope the trial will not last many days but trials are uncertain and we must be prepared to stay for such time as may be necessary.

If you have two rooms and a bath, it might be possible for us to get a room near for my secretary and the man who assists Mrs. Bryan; and they could, of course, find meals elsewhere if necessary. If any arrangement can be made whereby you can furnish accommodations for a part of the family, it will, of course, be on condition that you accept such compensation as may be sufficient to prevent our staying being a pecuniary burden to you.

You can confer with Mr. Hicks. It may be he can find the necessary rooms at a hotel, or it may be he can find some furnished house which we can occupy temporarily. If we have a furnished house, we will need someone to attend to the cooking.

Again assuring you of my deep appreciation of your generous offer, I am

Very truly yours,
[unsigned]

June 8, 1925

Hon. William Jennings Bryan,
Coconut Grove, Fla.

Dear Mr. Bryan:

We received a letter from our brother³¹ in New Jersey, stating that Dr. Howard Kelly³² of Johns Hopkins University is not an evolutionist, although one of the greatest surgeons in the United States. He suggests that we use him as a witness in our behalf.

³¹ Ira Evans Hicks was pastor of the First Presbyterian Church in Toms River, New Jersey, and an opponent of the theory of evolution.

³² Howard Atwood Kelly (1858-1943) was a gynecological surgeon at Johns Hopkins University Hospital.

My brother also mentioned in our conversation. I will get in touch with Price.

We have noticed Thomas Hunt Morgan's *Critique of the Theory of Evolution* is alive and if so will be sent through Dr. Price.

Mr. Godsey³⁵ on the press in which he will quash the indictment against you in our conference.

We talked with the Summer Resort which will make special arrangements. If you are away, he will give you a room, etc., if you wish.

The road from the resort is in good condition especially for driving between the two resorts.

To that you let me know your reservations for your trip. You wish to make the trial.

Coconut Grove, Fla.
6-10-1925

³³ George McCrea was a professor of biology and his many books include *The Prediction of the Future*.

³⁴ Thomas Hunt Morgan, was the author of *The Principles of Genetics* (Princeton, 1918).

³⁵ John Luke Godsey withdrew just before the trial.

³⁶ Surrounding Dr. Price's hot summer trip.

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any family, and I have asked
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ation of your generous offer,

ours,

My brother also suggested Dr. George Macready Price,³³ whom you mentioned in our conversation with you, and stated you would help us get in touch with Price if you have been unable to do so.

We have noticed in reading Mr. Prices book that he mentions Thomas Hunt Morgan³⁴ and takes an excerpt from his book entitled, *A Critique of the Theory of Evolution*. We do not know whether this man is alive and if so where he lives but you can possibly gain information through Dr. Price.

Mr. Godsey³⁵ one of the defense attorney's gave an interview to the press in which he states that the defense would make a motion to quash the indictment. This bears out our expectations discussed with you in our conference.

We talked with the proprietor of the Morgan Springs Hotel,³⁶ Summer Resort which we suggested to you and he said that he would make special arrangements and reservations for you if notified right away, he will give you special services such as serving meals in your room, etc., if you desire.

The road from Dayton to Morgan Springs is being put in good condition especially for this occasion and you will have no trouble in driving between there and Dayton.

To that you let us know as soon as possible so that we can make reservations for you. We would be glad to have any suggestions that you wish to make relative to the work to be done for the preparation of the trial.

Very truly yours,
Hicks & Hicks

Coconut Grove Fla.
6-10-1925

³¹ in New Jersey, stating that
iversity is not an evolutionist,
the United States. He suggests

byterian Church in Toms River,
of evolution.

gynecological surgeon at Johns

³³ George McCready Price (1870-1963) was at various times in his academic career a professor of English, chemistry, philosophy, physics, and geology. Among his many books were *The Phantom of Organic Evolution* (New York, 1924) and *The Predicament of Evolution* (Nashville, 1925).

³⁴ Thomas Hunt Morgan (1866-1945), nephew of Confederate general John Hunt Morgan, was a zoologist and geneticist. Among his many works were *A Critique of the Theory of Evolution* (Princeton, 1916) and *Evolution and Genetics* (Princeton, 1925). He won the Nobel Prize for Medicine in 1933.

³⁵ John Luke Godsey (1874-1932) was one of the initial defense lawyers but withdrew just before the trial.

³⁶ Surrounding Dayton were various resorts favored by area citizens during the hot summer months. Among these was the Morgan Springs Hotel.

Hicks and Hicks Attorneys
Dayton Tenn

Telegram received also letter appreciate kindness in arranging for rooms have already written Price and Center College Kentucky Professor will write Kelly in view number and prominence of attorneys selected by defense think we should have one or two assistants of National prominence have in mind Untermyer³⁷ of New York and Senator Walsh³⁸ of Montana confidential shall I write them also think we should have a board of advisers of prominent Christians of several denominations to offset board of scientific advisers selected by defense have written to several will write to some others think we should be prepared to meet every move they make they evidently are discovering that this case is not a joke but an issue of the first magnitude.

W J Bryan

June 10, 1925.
Mr. S. K. Hicks.
of Hicks & Hicks,
Dayton, Tennessee.

My dear Mr. Hicks:

Your letter and telegram awaited my return this afternoon from Leesburg after an absence of two days. I am greatly obliged to you for arranging the rooms with Mr. Rogers. His proffered hospitality was very opportune and I have no doubt it will be comfortable. As there will be six of us, it is too much to impose upon any family except upon the basis of fair compensation. If we take a furnished house, we would have somebody to do the cooking. The people who are with us could probably assist to a sufficient extent to make a second girl unnecessary but these things can be arranged when we get there,

³⁷ Samuel Untermyer (1858-1940) was a prominent member of the New York bar and an active partisan of the Democratic Party.

³⁸ Thomas James Walsh (1859-1940), a graduate of the University of Wisconsin, was a school teacher prior to entering the bar. From 1912 to his death, he represented Montana in the United States Senate.

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arrive in a day or two

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³⁹ Bainbridge Colby
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⁴⁰ Dudley Field Malone

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⁴² Two preemine
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provided you are able to find the help we need. Your letter which will arrive in a day or two will doubtless give all the details necessary.

I have been very much interested in the dispatches from New York. The unbelievers are evidently very much worried about the case. They have secured the services of four lawyers from the outside, Darrow, Colby,³⁹ Malone,⁴⁰ and some Jewish lawyer⁴¹ with whose name I am not familiar. They have also organized a Board of Advisors. They seem to realize that they are in for a real fight. While I think you and your brother Mr. Haggard and myself might be able to meet their attack without any outside aid, I feel that the case is so important that we should not take any chances. That is why I wrote you the other day asking whether you thought we need some prominent trial lawyer in the state to assist us. I left that to your judgment as you know better than I do your experience and the needs of the case from a state standpoint.

After reading the New York dispatches in the morning paper, I wired you suggesting that we invite one or two prominent men from the outside to assist us so that our side will look as large as theirs. The biggest lawyer I know of is Samuel Untermyer of New York. He has had large experience in big cases and is a match for any of the men on the other side. Being a Jew, he ought to be interested in defending Moses from the attacks of the Darwinites. He has been my personal and political friend for twenty-five years and I am sure he will be glad to join us, if his sympathies are on our side as I think they will be. He would, I am sure, serve without pay and would give us confidence that we would not be caught napping, so to speak.

The Catholics⁴² are taking a great deal of interest in this case, as you will see by the enclosed newspaper clipping, and I am wondering whether we should not invite some prominent Catholic lawyer to join us. My first choice would be Senator T. J. Walsh of Montana. He is one

³⁹ Bainbridge Colby (1869-1950), a former secretary of state, resigned from the defense before the trial started.

⁴⁰ Dudley Field Malone (1882-1950) was a lawyer and political reformer.

⁴¹ This could refer to either William Rosenson or Arthur Garfield Hays. Rosenson did not serve in Dayton; Hays did. Hays (1881-1954), the son of German Jewish immigrants, was an early member of the American Civil Liberties Union. As a lawyer, he represented Wall Street businessmen and political radicals.

⁴² Two preeminent Catholic laymen who supported the prosecution were Benedict Elder, secretary of the Catholic Press Association, and Colonel Patrick Callahan of Kentucky, an official of the Knights of Columbus. Both came to Dayton as unofficial advisors to the prosecution.

of the best lawyers in the country and a prominent Catholic. As it is necessary to get action soon, I am writing to these in a friendly way to see whether they are open to an engagement so that if I have your approval I can at once announce their association with us. If T. J. Walsh cannot come, David I. Walsh,⁴³ ex Senator from Massachusetts and a very able man and a prominent Catholic, would be my next choice.

I do not think of any prominent Jew to take the place of Untermeyer if he cannot come. There is a Jewish lawyer in Chicago whom I know very well but he is not so prominent as Untermeyer.

The second matter about which I telegraphed you was the selection of a Board of Advisors. I have already written several of our prominent Fundamentalists in the different churches, but it might be well to have them named as members of an Advisory Board so that the country would know that our side was prepared to hold its own against their committee of scientists.

I called on Bishop Candler,⁴⁴ one of the most prominent bishops of the Southern Methodist Church, but found that his bishop engagements would prevent his coming. I think however, he would serve upon a board of advisors.

There is a very prominent Episcopal bishop in Washington,⁴⁵ whom I would like to have on the board, if you approve of the board and I find he is with us. He is with us against modernism but I am not sure about his attitude on evolution.

Bishop Bell,⁴⁶ of the United Brethren Church, is a splendid man—one of the most prominent men in his church and is with us, and a personal friend.

I am looking up the authorities that may be cited in the case and shall be glad to have any information that comes to you from time to time. I shall be here now until I come up to Dayton, with the exception of a day's absence on the fifteenth when I speak at a school commencement near here.

⁴³ David Ignatius Walsh (1872-1947), a Democrat, served as governor of and senator from Massachusetts.

⁴⁴ Warren Akin Candler (1857-1941), a conservative leader and bishop of the Southern Methodist Church, was an opponent of evolution.

⁴⁵ James Edward Freeman (1866-1943) became in 1923 the Episcopal bishop of the District of Columbia.

⁴⁶ William Malcolm Bell (1860-1933), a bishop in the United Brethren Church, was known for his Sunday school work and for his efforts in the missionary field.

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fails us

June 10, 1925
Hon. William Jennings
Coconut Grove, Fla.

Dear Mr. Bryan:

Your kind favor of
We investigated a
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⁴⁷ Charles Evans Hughes, justice of the Supreme Court, secretary of state, lawyer, he had defended him, Scopes picked defense attorneys.

prominent Catholic. As it is to these in a friendly way to ment so that if I have your association with us. If T. J. Senator from Massachusetts Catholic, would be my next

take the place of Untermeyer er in Chicago whom I know termeyer.

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Very truly yours,
[unsigned]

as the defense did not get Hughes⁴⁷ we might invite him if Untermeyer fails us

June 10, 1925
Hon. William Jennings Bryan
Coconut Grove, Fla.

Dear Mr. Bryan:

Your kind favor of seventh received.

We investigated all available places for your lodging while in Dayton, and decided that the home of F. R Rogers is the best available place for you. The hotels are hot and will be crowded and other residential offers are for various reasons unsuitable. Mr. Rogers will turn over to you his entire furnished house and will let you have his cook. He will lodge with his relatives during the trial. His house is located in the best residential section of the town, where it is quiet. There is a spacious lawn around his house well shaded with trees. There are three large bed rooms, large enough for two beds each, together with a hall, dining room and kitchen. The house is properly lighted and equipped with bath room, toilet, etc.

If you wish you can use one of the bed rooms as reception room but he thinks that hall will suffice for this purpose. We have made arrangements for your secretary and serving man to stay with in a block of this house where there is a garage for your car, and where they can be reached by telephone at any time. Mr. Rogers has a good cook who will give her entire time to you. Mr. Rogers is a great admirer of you and offers this house to you with out charge. However if you desire to recompense him he states that about \$25.00 per week

⁴⁷ Charles Evans Hughes (1862-1948) was a governor of New York, associate justice of the Supreme Court, unsuccessful presidential candidate in 1916, secretary of state, and eventually chief justice of the Supreme Court. A noted lawyer, he had been the American Civil Liberties Union's choice as lead defense attorney in the Dayton trial. Before the organization could approach him, Scopes picked Clarence Darrow and Dudley Field Malone as his outside attorneys.

will cover his expense in the matter. We notified Mr. Rogers to hold this place for you and he is making all proper arrangements.

The motion to quash has not been filed by the defense, but they can avail themselves of this opportunity on the first day of the trial, and it will be argued out at that time. We anticipated this move and have been preparing to meet their arguments. We are confident that the Judge will over rule them in their motion, as the court almost invariably upholds the statue in such a motion, and the presumption is in favor of the constitutionality of the act. We understand the feelings of the court in this particular matter and feel assured that their motion will be over-ruled. About the only color, and the only substantial attack in this motion is on the grounds that it violates the 14th Amendment of the U.S. Constitution, and it is not likely that our court will presume to declare the act unconstitutional on this ground. Of course, in the case the court should sustain their motion to quash, then the state could appeal it's case to Supreme Court of the State and there have the constitutionality of the act thrashed out. You might advise your son to give the most of his time in preparing to meet the attack on the ground of the 14th Amendment of the U. S., as we can easily handle the state issues involved.

Although this morning's paper shows that Colby as well as Darrow will take part in this trial, yet under the above stated conditions we feel that it will be a great victory for our cause to whip them without additional counsel as suggested in your letter. In perfect frankness and justice to other counsel that are associated with us, we will say that you have met the youngest and most inexperienced of the states counsel. Attorney General Stewart⁴⁸ is a good constitutional lawyer, a close observer, a good reasoner, a hard worker, and a good speaker. We feel that, under the conditions, he alone will be able to take care of the motion to quash. He is well versed in criminal procedure in this state, as you might expect from an attorney general.

However, after this local trial, it would probably be wise to associate with us a good State or National Constitutional lawyer to argue the case before the Supreme Courts.

If you think it would be wise to get this additional counsel for this trial we will be glad to do so. Please feel at liberty to make any suggestions for the good of the cause, and do not hesitate to express yourself frankly to us. As you know we are young and inexperienced in cases of this magnitude, and are always ready to receive advise.

⁴⁸ Arthur Thomas Stewart (1892-1972) was attorney general of Tennessee's eighteenth judicial circuit.



Clarence Darrow address
Special Collections.

I am enclosing clip dispatch from New lawyers. From this di are anxious to win a various witnesses to show that the theory Story of Creation. It one of their witnesses to be over-ruled, and stand. This also shows witnesses for this trial.

In reply to your and prosecutor White.

⁴⁹ Henry Fairfield Osborn and one of the nation's leading paleontologists.

We notified Mr. Rogers to hold proper arrangements.

ed by the defense, but they can the first day of the trial, and it anticipated this move and have ts. We are confident that the motion, as the court almost motion, and the presumption is act. We understand the feelings I feel assured that their motion and the only substantial attack violates the 14th Amendment of that our court will presume to ground. Of course, in the case to quash, then the state could the State and there have the You might advise your son to meet the attack on the ground we can easily handle the state

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this additional counsel for this feel at liberty to make any nd do not hesitate to express re young and inexperienced in eady to receive advise.

attorney general of Tennessee's



Clarence Darrow addressing the jury during the Scopes Trial. *Courtesy UTK Special Collections.*

I am enclosing clippings from the Chattanooga Times giving a press dispatch from New York where Mr. Scopes is consulting with his lawyers. From this dispatch you will see that the Civil Liberties Union are anxious to win a moral victory at this trial and will therefore have various witnesses to attempt to show the truth of Evolution and to show that the theory of Evolution does not conflict with the Divine Story of Creation. It also says that they ask Mr. Osburn⁴⁹ to appear as one of their witnesses. This shows that they expect the motion to quash to be over-ruled, and that they expect to get these witnesses on the stand. This also shows that we are not amiss in having our rebuttal witnesses for this trial.

In reply to your inquiry as to the religious belief of Judge Raulston and prosecutor White, will say that Judge Raulston is an Episcopalian

⁴⁹ Henry Fairfield Osborn (1857-1935) was a paleontologist, museum educator, and one of the nation's leading defenders of evolution.

and Mr. White is a Baptist. Judge Raulston married a Baptist, and it is understood that he is very favorable toward the Baptist also.

Very truly yours,
Hicks & Hicks

Coconut Grove, Fla
Hicks & Hicks Atty
Dayton

I await decision of tonights conference pls. keep all names confidential until ans. is received from them include former Secretary Hughes among possibilities fundamentalists offer to furnish official stenographer without cost to report entire proceedings they want complete records for publication later they will furnish extra copies & part to all newspapers on equal terms if advise that we accept offer.

[unsigned]

June 12, 1925
Hon. William Jennings Bryan,
Coconut Grove, Florida

Dear Mr. Bryan:

Your wires of the 10th and 11th instant received. And as I wired you last night all the local attorney's had a conference with Attorney General Stewart at Pikeville near Dayton and fully discussed the matters suggested in your telegrams. General Stewart and Mr. McKenzie,⁵⁰ the other associated counsel, feel that we can properly take care of all the legal phases of the case, and that you and General Stewart can fully take care of the cross examination of the witnesses. General Stewart pointed out the fact that any attorney examining such technical witnesses would have to be assisted by some scientist sitting close to him, who would prompt him as to questions to be asked, no matter how brilliant the attorney, during crossexamining He said that you and

⁵⁰ James Gordon McKenzie (1893-1944) was a Rhea County judge and the son and law partner of Benjamin Gordon McKenzie (1866-1938). The elder McKenzie joined his son on the prosecution team just prior to the trial.

he would be able to handle the circumstances. On the victory to convict Scopes called to his defense. The way is some what in the Attorney General's quash the indictment admitted at the trial.

Mr. Haggard and I in this matter and so course in phases of the case for the State General Stewart agree could meet us in Atlanta wait until then to discuss could talk to you about other prominent Attorney meet us there Wednesday other matters which Attorney General conference.⁵¹

We are glad the stenographers to receive have been made so offer. We have already Tennessee Text Book not contain the things Scopes taught. This

I am enclosing Washington D. C. for you for reference

⁵¹ Bryan arrived in Atlanta the Piedmont conference were Hicks, and Herbert

⁵² The book, *Biological Hunt*, was published in schools were le

⁵³ On 10 June 1925 to the prosecution

ton married a Baptist, and it is
ward the Baptist also.

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Rhea County judge and the son
Kenzie (1866-1938). The elder
eam just prior to the trial.

he would be able to handle this as well as any other attorney under the circumstances. On the other hand he feels that it would be a greater victory to convict Scopes in spite of the great array of attorney's he has called to his defense. Knowing the sentiment of the court, (who by the way is some what indiscreet in discussing the merits of the case with the Attorney General), General Stewart is confident their motion to quash the indictment will be over-ruled and all the evidence will be admitted at the trial.

Mr. Haggard and ourselves do not agree with the Attorney General in this matter and so expressed ourselves in our conference, but of course in phases of this kind the Attorney General always has charge of the case for the State and is the ultimate one to decide these matters. General Stewart agreed to consider this matter a few days and, if you could meet us in Atlanta on Wednesday of next week would be glad to wait until then to decide the matter definitely. We believe that if he could talk to you about the matter he would readily see the necessity of other prominent Attorney's in this case. If it is convenient with you to meet us there Wednesday wire us and we will meet you. There are other matters which should be discussed also at that conference. Attorney General and all prosecuting Attorney's will be at that conference.⁵¹

We are glad that the Fundamentalists offered to furnish official stenographers to report the proceedings, and as no other arrangements have been made suggest that you wire them at once accepting their offer. We have already won a great victory in this case in that the Tennessee Text Book Commission has selected a Biology⁵² that does not contain the theory of evolution, and has rejected the book that Scopes taught. This holds good for the next five years.

I am enclosing letter received this morning from W. E. Ryan⁵³ of Washington D. C. We do not know this man but we send this letter to you for reference in case that you want to get him as a witness.

⁵¹ Bryan arrived in Atlanta at 7:45 am. on 19 June 1925. After breakfast, he met in the Piedmont Hotel with the delegation from Dayton. In town for the conference were J. G. McKenzie, Harry M. Lawrence, W. C. Haggard, Sue K. Hicks, and Herbert E. Hicks.

⁵² The book, *Biology and Human Welfare* by James E. Peabody and Arthur E. Hunt, was published by McMillan in 1924. Contracts on texts for Tennessee schools were let on a five year basis.

⁵³ On 10 June 1925 W. E. Ryan, a geologist and mineralogist, offered his services to the prosecution as an expert witness.



"Joe Mendl," one of many sightseers in Dayton during the trial. *Courtesy UTK Special Collections.*

Referring back to
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Please feel free to
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Fundamentalism at

June 13, 1925

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June 13, 1925

Hon. W. J. Bryan
Coconut Grove, Fla

My dear Mr. Bry

Your letter of
Mr. Haggard,
counsel, althoug
Jew in the case f



ring the trial. Courtesy UTK

Referring back to the matter of associating other counsel with us, we might suggest that you wire Attorney General A. T. Stewart, Winchester, Tennessee any specific reasons why you think the Attorney's suggested would be of any special aid in the case, other than to take care of the legal phases. Walsh is a Catholic Untermeyer is a Jew and would not be of special aid before our jury because of his religious belief.

Please feel free to express yourself frankly to General Stewart as he is very conscientious and has the cause of the State as well as Fundamentalism at heart, in making his decisions.

Very truly yours,
Hicks & Hicks

June 13, 1925

My dear Mr. Hicks:

I am in receipt of your favor in regard to the Rogers house. It seems to be just the place we need and he is very kind to give us his house and stay with relatives while we are there. It is convenient, also, to have a garage. The compensation suggested, twenty-five dollars a week, is entirely satisfactory to me if it is to him. The demand for rooms will be so great that he could probably get more than that if he was simply seeking a profit. I appreciate the fact that he is offering the place out of his friendly interest, in the cause as well as in myself.

Very truly yours,
W. J. Bryan

June 13, 1925
Hon. W. J. Bryan
Coconut Grove, Fla.

My dear Mr. Bryan:

Your letter of June 10 arrived this morning.

Mr. Haggard, and ourselves fully agree with you about the other counsel, although, we some what doubt the advisability of having a Jew in the case for the reason that they reject part of the Bible and do

not believe in the Divinity of Christ. However we are willing to leave this matter to your judgement and accept the attorney's you advise. General Stewart is not obstinate in the matter but is as yet undecided as to whether we need any other counsel in the case. We fully believe that after he has heard your reasons and suggestions in the matter, personally, he will agree on taking in other counsel. This is why we strongly urge the conference in Atlanta.

We would suggest to you that you get Bishop Collins Denny,⁵⁴ of Baltimore, to take the place of Bishop Candler. Bishop Denny is next to Candler in Southern Methodism. We are not sure about his belief but understand that he is strong against unification of Churches, and that one of his reasons for being against it is because the Northern preachers are too liberal in their views, on evolution.

We would suggest that Bishop McDowell⁵⁵ of Washington, D. C., is the greatest man in the M. E. Church that you can find, and we understand that he is a fundamentalist.

We are afraid that we did not make it clear in our last letter that we are all agreed for you to select the Board of Advisors. You have full authority to proceed in this matter.

Very truly yours,
Hicks & Hicks

June 16, 1925
Mr. S. K. Hicks,
Dayton, Tennessee.

My dear Mr. Hicks:

I shall meet you in Atlanta (at the Piedmont, unless you name some other place) on Friday morning. This note is to give you some bits of information that have come in recently.

First: Dr. Howard A. Kelly, of Baltimore, a distinguished surgeon and an orthodox Christian, offers to render us any assistance possible. He will be a splendid man to have on hand—he is the equal of any witness the defense can bring.

⁵⁴ Collins Denny (1854-1943) was a former lawyer and a bishop in the Methodist Episcopal Church, South.

⁵⁵ William Fraser McDowell (1858-1939) served successively as Methodist Episcopal bishop of Chicago and Washington, D. C., and was president of the Methodist Church's board of temperance, prohibition, and public morals.

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June 23, 1925
Hon. William J. B
Coconut Grove,

My dear Mr. Bry

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Second: Prof. McMullen of Center College, Danville, Ky. will be on hand. He can advise us on matters of science, also.

Third: The court stenographer to be furnished by Dr. J. Frank Norris⁵⁶ of Fort Worth, Texas—please put his name down so that you can communicate with him whenever it is necessary—is an excellent man well acquainted with both evolution and the Bible.

Fourth: Samuel Untermyer has gone to Europe, so we do not need to consider him any more. I recognize the force of the objection you make to him and Walsh. I have not written the latter and will do nothing until after we confer on Friday. After reading your letter, I am inclined to think we shall not need any additional attorneys.

I am getting up a list of names for our Board of Advisors, if we need a board. Can give you information regarding some of the persons you mentioned. We will confer about these Friday.

It is interesting to note the growing interest in the case. Am preparing myself on all imaginable points.

Very truly yours,
W. J. Bryan

June 23, 1925

Hon. William J. Bryan,
Coconut Grove, Fla.

My dear Mr. Bryan:

We arrived home from our conference in Atlanta so late that we were unable to get in touch with the Attorney General about the additional counsel agreed on at the conference. However we wired him the results of the conference and we have been informed that he is taking the matter up with the Governor.⁵⁷ We investigated the statute on the question of the right of a chancellor to practice law in the other courts of the State and found that the law forbide him to practice in

⁵⁶ John Frank Norris (1877-1952), nicknamed the Texas Tornado, was a controversial Baptist preacher active in Texas.

⁵⁷ Austin Peay (1876-1927) was elected governor in 1923. Though initially hesitant about signing the Butler Act, when the act and Tennessee came under attack with the Scopes Trial, Peay came vigorously to the defense of both.

this case. So that this would eliminate Mr. Patterson.⁵⁸ As soon as we get anything definite on this matter will inform you.

We met and talked with Mr. Darrow who was in Dayton yesterday and to-day. They proposed to us that we allow a continuance of the case for ten days, saying that they haven't sufficient time in which to prepare for the case. We judge from that request that they are having trouble in getting witnesses. Other statements made by them seem to bear out this fact. Darrow at one time said that some of the Northern People had the idea that they would be in bodily danger if they came down here among the fundamentalists. We believe that you were right when you intimated that the evolutionists haven't the moral courage to go on the stand and stand up for their beliefs.

The Progressive Club⁵⁹ of Dayton gave a banquet for Darrow and he was the principal speaker of the evening. In his speech, it was a wonderful address, he came out firm on his religious convictions, which are as you know greatly agnostic. People of Dayton like his personality and think he is a great man but they are all shaking their heads about his beliefs, so that we believe that he has hurt his cause seriously in this community. Mr. Colby and Mr. Malone are also here today.

Mr. Darrow said that he did not intend to take advantage of any technicality that did not go to the merits of the case, that he did not care whether the caption or the body of the act made the act unconstitutional,⁶⁰ but that he only wanted try out the issue of the right of the legislature to pass such an act.

We have another letter from Dr. Gray,⁶¹ Moody Bible Institute, in which he states that Professor George Barry O'toole⁶² who wrote the book entitled, *The Case Against Evolution* published by the McMillan

⁵⁸ Malcolm Rice Patterson (1861-1935), a former governor of Tennessee, had been appointed in 1923 to the Tennessee judiciary by his friend Governor Austin Peay. Patterson supported the ban on the teaching of evolution.

⁵⁹ The Progressive Club was composed of local leaders wishing to promote Dayton as a business center. Wallace C. Haggard was the club secretary.

⁶⁰ During the grand jury stage of the proceedings, the defense had argued that the Butler Act was flawed because, while the title mentioned evolution, the body of the act did not.

⁶¹ James Martin Gray (1851-1935) was president and trustee of the Moody Institute, one of the leading fundamentalist institutions in the country. He was the author of numerous religious works, including *Why a Christian Cannot Be an Evolutionist* (Chicago, 1925).

⁶² George Barry O'Toole (1886-1944) was a Catholic priest and a professor of philosophy and biology.



Crowd awaiting arrival of Darrow for the trial. Courtesy UTK

Company New York a great biologist. We use him as one of the

Darrow recommended him as one of the most interested in evolution (Evolution). It seems to me that evolution.

Let us know definitely if the Progressive Club is

⁶³ Hicks meant to write 'Hicks'.

⁶⁴ Vernon Lyman Kieckhefer, *Life* (London, 1900).

Mr. Patterson.⁵⁸ As soon as we will inform you.

Who was in Dayton yesterday we allow a continuance of the haven't sufficient time in which to that request that they are having statements made by them seem to said that some of the Northern be in bodily danger if they came We believe that you were rightists haven't the moral courage to beliefs.

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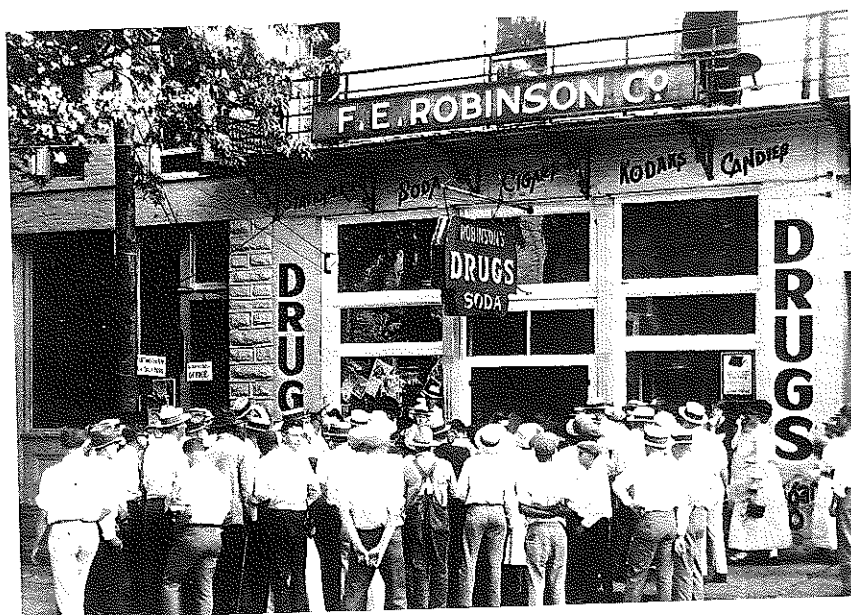
former governor of Tennessee, had ee judiciary by his friend Governor on the teaching of evolution.

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sident and trustee of the Moody t institutions in the country. He was including *Why a Christian Cannot*

Catholic priest and a professor of



Crowd awaiting arrival of latest newspapers outside Robinson's drugstore during the trial. *Courtesy UTK Special Collections.*

Company New York copyrighted 1925, is a staunch evolutionist⁶³ and a great biologist. We would suggest that you get in touch with him and use him as one of the witnesses.

Darrow recommended to one of the Dayton citizens, who is interested in evolution, that he read Vernon Kelloggs⁶⁴ Book entitled, (Evolution). It seems that Mr. Darrow follows Kelloggs theory of evolution.

Let us know definitely when you will arrive in Dayton as the Dayton Progressive Club is planning to give you a banquet when you arrive.

Very truly yours,
Hicks & Hicks

⁶³ Hicks meant to write anti-evolutionist.

⁶⁴ Vernon Lyman Kellogg (1867-1937) was the author of *Evolution and Animal Life* (London, 1907) and professor of entomology at Stanford University.

June 25, 1925
Hicks & Hicks
Attorneys at Law,
Dayton, Tennessee.

My dear Mr. Hicks:

Thanks for your letter. I shall await information as to the importance of an additional attorney. Sorry Patterson cannot serve. He would really have been a great aid to us. I am inclined to think that Lindsay,⁶⁵ because he is a Republican and recommended by White, might be of assistance. However, I am willing to leave all state matters to you who are in the state and know the situation there better than I do. The attorney general for that district and the governor will be wise advisors.

I note what you say in regard to the impression made by Darrow. He is an able man, and, I think, an honest man. I will bring out my book containing a speech made in California when he was defendant in a bribery charge.⁶⁶ It is a very able speech but contains nothing that need frighten us in this case. It was rather interesting, however, to see that he referred to God in a very respectful way two or three times.

Shall be glad to hear from you at any time by letter or wire.

Very truly yours,
W. J. Bryan

⁶⁵ Hugh Barton Lindsay (1856-1944) was a leading member of the Knox County bar.

⁶⁶ In 1911, during a period of labor unrest in California, the anti-union *Los Angeles Times* was bombed, resulting in twenty deaths. Two labor leaders were arrested and charged with the crime. Clarence Darrow became their lawyer. Halfway through the trial the defendants pled guilty. National labor leaders, who had actively proclaimed the innocence of the two, were appalled. Darrow was denounced for having assured the national union leaders that the defendants were innocent. After this trial, Darrow's career as a labor lawyer was finished and he was indicted on two counts of conspiracy to suborn perjury. He was separately tried on the two counts: one jury found him innocent and the other was a hung jury. Eventually the remaining charge was dismissed.

June 27, 1925.
Hicks & Hicks,
Dayton, Tennessee.

My dear Mr. Hicks:

I enclose letter from [unclear] should write her that we a distance. I had a letter cost. I have offered to [unclear] But there is no reason w interested in the law. I you than from me and, your associates to take [unclear]

Also enclose letter [unclear] sent to me by Dr. Riley

⁶⁷ On 29 May 1925 Sue School in Missions Women's Press and organization's behalf prosecution. On 2 declining extra coun the witnesses, who their expenses are p July 1925, in Hicks l

⁶⁸ On 18 May 1925 Lou note 69 below) to prosecution. On 27 to take the lead in t Riley, 18 May 1925.

⁶⁹ William Bell Riley (1919 organized the the Anti-Evolution l

June 27, 1925.
Hicks & Hicks,
Dayton, Tennessee.

My dear Mr. Hicks:

I enclose letter from Mrs. Staley⁶⁷ of Bristol, Tennessee. I think you should write her that we may need money to help bring witnesses from a distance. I had a letter from one man who would like to come but for cost. I have offered to put up the money in a few cases, if necessary. But there is no reason why we should not have a fund raised by those interested in the law. I think it would be better for this to come from you than from me and, therefore, I am sending it to you for you and your associates to take action upon it.

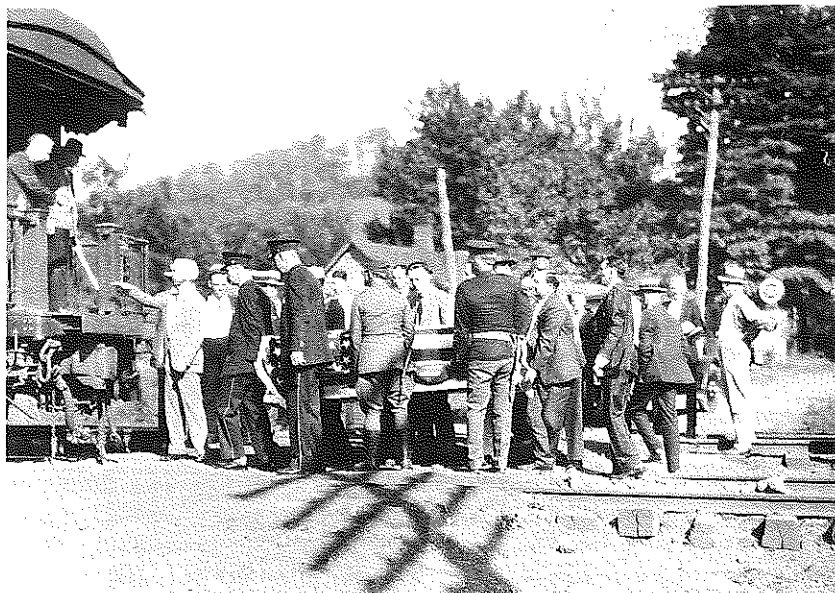
Also enclose letter from Mrs. Minor⁶⁸ to Mrs. Staley. These were sent to me by Dr. Riley⁶⁹ of Minneapolis.

Very truly yours,
W. J. Bryan

⁶⁷ On 29 May 1925 Sue Reynolds Staley, author of *How to Interest Your Sunday School in Missions* (Cincinnati, 1914) and president of the Tennessee Women's Press and Author's Club, wrote to Bryan offering on her organization's behalf to raise funds to hire an additional lawyer for the prosecution. On 2 July 1925 Sue K. Hicks replied for the prosecution, declining extra counsel but requesting "money to pay the expenses of some of the witnesses, who have volunteered to come but who can not come unless their expenses are paid." Staley to Bryan, 29 May 1925, and Hicks to Staley, 2 July 1925, in Hicks Papers.

⁶⁸ On 18 May 1925 Louise B. Minor of Memphis wrote to William Bell Riley (see note 69 below) to urge that additional counsel be hired to help the Scopes prosecution. On 27 May 1925 Minor wrote to Sue Reynolds Staley to ask her to take the lead in the state to raise money to help the prosecution. Minor to Riley, 18 May 1925, and Minor to Staley, 27 May 1925, in Hicks Papers.

⁶⁹ William Bell Riley (1861-1947) was a leading fundamentalist theologian who in 1919 organized the World's Christian Fundamentals Association and in 1923 the Anti-Evolution League.



Coffin bearing the body of William Jennings Bryan being loaded onto train in Dayton, just days after the trial. *Courtesy UTK Special Collections.*

June 27, 1925.

Hon. W. J. Bryan,
Coconut Grove, Fla.

Dear Mr. Bryan:

We have a letter from Pres. James M. Gray, of the Moody Bible Institute, in which he recommends that Prof. Bateson,⁷⁰ President of the British Science Association be secured as a witness. This man gave the address at the annual meeting of the Association for the Advancement of Science, at Toronto, Dec. 28, 1921. The title of his speech was "Evolutionary Faith and Modern Doubts," and is reported in full in the periodical "Science," volume 55, page 55. You will also

⁷⁰ William Bateson (1861-1926) was a biologist and early geneticist.

find this speech referred to by Moore.⁷¹ We suggest you make a good witness.

We have a letter from the New York Commercial in which it is stated that in the subversive movement. Kindly advise if you wish to be added.

The defense has asked me to write to the press on the 27th inst. to you by return mail.

Trusting that you will be satisfied and Mrs. Bryan, we are,

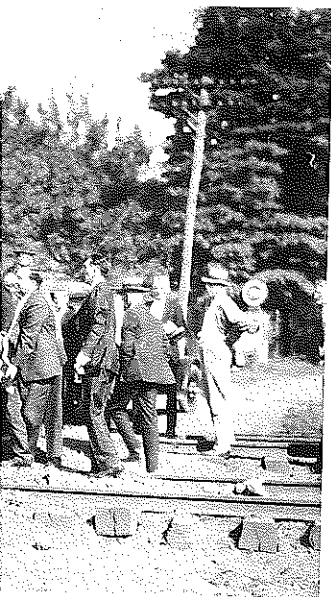
July 1 1925
Coconut Grove, Fla.

S K Hicks
Dayton Tenn

Appreciate compliments

⁷¹ Louis Trenchard Moore, "The Humanists," wrote *Limitations of Science* (Princeton, 1925).

⁷² Fred Richard Moore, *Commercial* from



...being loaded onto train in
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...ray, of the Moody Bible
...f. Bateson,⁷⁰ President of
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...the Association for the
...28, 1921. The title of his
...Doubts," and is reported
...5, page 55. You will also

...early geneticist.

find this speech referred to in "The Dogma of Evolution", by Louis T. Moore.⁷¹ We suggest that you get in touch with and ascertain if he will make a good witness along this line.

We have a letter from Mr. Fred Marvin,⁷² Editor in Chief of the New York Commercial in which he tenders services of attorney well versed in the subversive movements of the American Civil Liberties Union. Kindly advise if you want to accept services of such an attorney.

The defense has announced a long list of witnesses which was given to the press on the 25th. If you have not seen this list we will forward it to you by return mail.

Trusting that you arrived home alright, and with best wishes for you and Mrs. Bryan, we remain,

Very truly yours,
Hicks & Hicks

July 1 1925
Coconut Grove, Flo

S K Hicks
Dayton Tenn

Appreciate compliment arrive Tuesday but prefer banquet Wednesday

W J Bryan

⁷¹ Louis Trenchard More (1870-1944), a physicist and one of the "new humanists," wrote on the pretensions of science. Among his works were *The Limitations of Science* (New York, 1915) and *The Dogma of Evolution* (Princeton, 1925).

⁷² Fred Richard Marvin (1868-1939) was editor-in-chief of the *New York Commercial* from 1925 to 1928.

July 3 1925
Coconut Grove Flo

Hicks and Hicks
Dayton Tenn

Assume state will oppose transfer case to Federal Court.⁷³

W J Bryan

July 3, 1925
Hicks & Hicks,
Dayton, Tennessee.

Dear Mr. Hicks:

I think we should use Bateson's speech but I do not think we could use him as a witness. I will bring his speech. A scientific paper has a letter in which he answers criticism made to the speech. His answer does not meet the criticism. He reaffirms his faith in evolution, but we are not so much concerned about his faith as we are about the foundations upon which it rests. When he says they have their doubts as to the origins of species, it means that they believe in evolution without anything to rest it upon.

I have been reading More's book, "The Dogma of Evolution" but he is in England and could not come if we wanted him. Besides that, while he says things that we can use he says he believes in evolution, although he finds fault with the proof relied upon to support it and also objects to laws that interfere with the teaching of evolution.

Dr. Gray has rendered us great service. The most important service I will tell you about when I come. I am going to bring a number of books with me and am giving all my time to the subject.

⁷³ At the urging of Bainbridge Colby the defense attempted to have the trial transferred to a federal court on the grounds that the Butler Act was unconstitutional. John Randolph Neal attempted to present such a motion to eastern district judge Xen Hicks, but the judge, who wanted nothing to do with the case, hurriedly left Knoxville. The nearest federal judge was John J. Gore of the middle district of Tennessee, who was vacationing in Cookeville. On 5 July 1925 Neal appealed to him and presented his arguments. Judge Gore declined to intervene, declaring that a federal judge could not prevent legitimate state officials from acting under the laws of their state.

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Rapier,⁷⁴ p. 134; Homer
567. The court distinctl
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religious liberty, that i
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decision.

Hope to see you Tu

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⁷⁴ In the Rapier and
of government

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A scientific paper has a
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s vacationing in Cookeville.
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s of their state.

I have some new points that are valuable. I have just received a letter from a friend referring me to two cases in 143 U.S. in regard Raper,⁷⁴ p. 134; Homer, vs. U.S., page 213, and the same, page 570 and 567. The court distinctly affirms that the Federal Constitution makes no provision for protecting the citizens of the respective states in their religious liberty, that is left to the State Constitutions and laws. Nor is there inhibition imposed by the Constitution in this respect on the states. Twelve decisions are cited in support of this, which would seem to exclude the U. S. Supreme court from taking any part in the decision.

Hope to see you Tuesday afternoon. I leave here Sunday night.

Very truly yours,

W. J. Bryan

Suggest you ask Marvin to send any suggestions & say that we will let him know if we need him at Dayton.

⁷⁴ In the Raper and Homer cases the U.S. Supreme Court confirmed the power of government to protect the people from a "demoralizing influence."